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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 MORGAN TWO PICKS,
12 Plaintiff,
13 v.
14 ERLINDA V. BALDWIN, et al.,
15 Defendants.
16

Case No. CV 18-09352-CJC (RAOx)

**ORDER REMANDING ACTION
AND DENYING REQUEST TO
PROCEED *IN FORMA PAUPERIS***

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18 **I.**
19 **FACTUAL BACKGROUND**

20 Plaintiff Morgan Two Picks, LLC (“Plaintiff”) filed an unlawful detainer
21 action in Los Angeles County Superior Court against Defendants Erlinda V.
22 Baldwin and Does 1 to 10 (“Defendants”), on or about August 7, 2018. Notice of
23 Removal (“Removal”) and Attached Complaint (“Compl.”), Dkt. No. 1.
24 Defendants are allegedly occupants of real property owned by Plaintiff and located
25 in Sun Valley, California (“the property”). Compl. ¶¶ 2, 5, 6-7, 10. Plaintiff filed
26 the unlawful detainer action seeking restitution of the property and monetary
27 damages. *Id.* at 2-3.

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1 Defendant Ashley Miller filed a Notice of Removal on November 1, 2018,
2 invoking the Court’s federal question jurisdiction. Removal at 1-6. Defendant
3 Miller also filed a request to proceed *in forma pauperis*. Dkt. No. 3.

4 II.

5 DISCUSSION

6 Federal courts are courts of limited jurisdiction, having subject matter
7 jurisdiction only over matters authorized by the Constitution and statute. *See, e.g.,*
8 *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 128 L. Ed.
9 2d 391 (1994). It is this Court’s duty always to examine its own subject matter
10 jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235, 163 L.
11 Ed. 2d 1097 (2006), and the Court may remand a case summarily if there is an
12 obvious jurisdictional issue. *Cf. Scholastic Entm’t, Inc. v. Fox Entm’t Grp., Inc.*,
13 336 F.3d 982, 985 (9th Cir. 2003) (“While a party is entitled to notice and an
14 opportunity to respond when a court contemplates dismissing a claim on the merits,
15 it is not so when the dismissal is for lack of subject matter jurisdiction.”) (omitting
16 internal citations). A defendant attempting to remove an action from state to
17 federal court bears the burden of proving that jurisdiction exists. *See Scott v.*
18 *Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). Further, a “strong presumption”
19 against removal jurisdiction exists. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th
20 Cir. 1992).

21 Defendant Miller asserts that this Court has subject matter jurisdiction
22 pursuant to 28 U.S.C. §§ 1331 and 1441. Removal at 2. Section 1441 provides, in
23 relevant part, that a defendant may remove to federal court a civil action in state
24 court of which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a).
25 Section 1331 provides that federal “district courts shall have original jurisdiction of
26 all civil actions arising under the Constitution, laws, or treaties of the United
27 States.” *See id.* § 1331.

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1 Here, the Court’s review of the Notice of Removal and attached Complaint
2 makes clear that this Court does not have federal question jurisdiction over the
3 instant matter under 28 U.S.C. § 1331. First, there is no federal question apparent
4 from the face of the Complaint, which appears to allege only a simple unlawful
5 detainer cause of action. *See Wescom Credit Union v. Dudley*, No. CV 10-8203
6 GAF (SSx), 2010 WL 4916578, at *2 (C. D. Cal. Nov. 22, 2010) (“An unlawful
7 detainer action does not arise under federal law.”) (citation omitted); *IndyMac*
8 *Federal Bank, F.S.B. v. Ocampo*, No. EDCV 09-2337-PA (DTBx), 2010 WL
9 234828, at *2 (C.D. Cal. Jan. 13, 2010) (remanding an action to state court for lack
10 of subject matter jurisdiction where plaintiff’s complaint contained only an
11 unlawful detainer claim).

12 Second, there is no merit to Defendant Miller’s contention that federal
13 question jurisdiction exists based on the Protecting Tenants at Foreclosure Act of
14 2009 (“PTFA”). Removal at 1-6. The PTFA does not create a private right of
15 action; rather, it provides a defense to state law unlawful detainer actions. *See*
16 *Logan v. U.S. Bank Nat. Ass’n*, 722 F.3d 1163, 1164 (9th Cir. 2013) (affirming
17 dismissal of the complaint because the PTFA “does not create a private right of
18 action allowing [plaintiff] to enforce its requirements”). It is well settled that a
19 “case may not be removed to federal court on the basis of a federal defense . . . even
20 if the defense is anticipated in the plaintiff’s complaint, and even if both parties
21 concede that the federal defense is the only question truly at issue.” *Caterpillar*
22 *Inc. v. Williams*, 482 U.S. 386, 393, 107 S. Ct. 2425, 2430, 96 L. Ed. 318 (1987).
23 Thus, to the extent Defendant Miller’s defenses to the unlawful detainer action are
24 based on alleged violations of federal law, those defenses do not provide a basis for
25 federal question jurisdiction. *See id.* Because Plaintiff’s complaint does not
26 present a federal question, either on its face or as artfully pled, the Court lacks
27 jurisdiction under 28 U.S.C. § 1331.

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III.

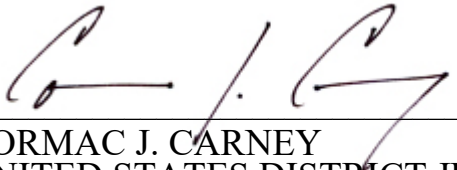
CONCLUSION

Accordingly, IT IS ORDERED that this case is REMANDED to the Superior Court of California, County of Los Angeles, forthwith.

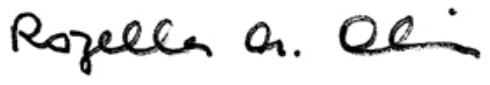
IT IS FURTHER ORDERED that Defendant's request to proceed *in forma pauperis* is DENIED as moot.

IT IS SO ORDERED.

DATED: November 6, 2018


CORMAC J. CARNEY
UNITED STATES DISTRICT JUDGE

Presented by:


ROZELLA A. OLIVER
UNITED STATES MAGISTRATE JUDGE